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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/751,763 | 01/05/2004 | Christoph Schwemmlin | F-8100 | 2277 |
| 28107 | 7590 | 08/23/2005 | | |
| JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168 | | | EXAMINER MUROMOTO JR, ROBERT H | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3765 | |

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/751,763

Applicant(s)

SCHWEMMLEIN ET AL.

Examiner

Robert H. Muromoto, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
- 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
- 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/9/04, 1/5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Horn UK patent 406,931.

'93 discloses a thread delivery device to supply threads to textile machines. Referring to figures 1 and 2, '931 discloses a braking system for the thread delivery device.

"Fixed to the plate a, of the bobbin carrier is a pin b upon which a brake disc c is provided with a long sleeve is pivoted. The bobbin d is carried by this sleeve of the brake disc c. A brake lever f and a thread tension lever g are pivotally arranged upon a short vertical axis e. **By means of a spring the thread tension lever g** is turned in the position shown in the dotted lines in Fig. 2. This turning is limited by a stop shown in Fig. 2. On exerting a pull on the thread a brake shoe provided at the shorter arm of the double armed brake lever f is pressed against the brake disc c, so that the bobbin is prevented from rotating (col. 1, line 43- col. 2, line 6)."

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Brake lever f corresponds to the claimed "pivotal brake lever 10", brake disc c corresponds to the claimed "brake drum (1)", in figure 2, the brake means portion of the brake lever f corresponds to the claimed "brake shoe resting against the brake drum", and the tip of the brake lever f corresponds to the "guide arm 20 provided with an eye...".

The citation above clearly discloses a spring loaded brake means as recited in claim 2.

'931 discloses, "the tension applied to the thread by the bobbin brake depends on the tension of the spring acting on the thread tension lever g. If this spring is heavily tensioned, the pressure of the thread against the brake lever is increased and the braking force also is then accordingly increased. The spring acting on the thread tension lever is, of course, adjustable or exchangeable." (claim 3)

Figure 2, clearly shows the limitations of claim 4. The fulcrum of the brake lever in the reference is found at e. This point lies on a tangent as recited.

The spring means in '931 is inherently "elastically flexible" as recited in claim 6.

The brake drum c is clearly a uniform round surface as recited in claim 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over '931.

'931 teaches essentially all the limitations of the instant invention with the exception of the specific ratio of spacing between the guide arm and the brake means recited in claim 5 or the diameter of the brake drum with respect to a full bobbin.

However, these variables have not been given any criticality nor shown to have unexpected results, therefore it would have been obvious to one of ordinary skill in the art to determine the optimum values for these variables for a given application through routine experimentation.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert H. Muromoto, Jr. whose telephone number is 571-272-4991. The examiner can normally be reached on 8-530, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on 703-305-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bhm
August 19, 2005



JOHN J. CALVERT
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